

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

APR 04 2013

Clerk, U.S. District Court
District Of Montana
Missoula

CINDY ANN FRANK,

Plaintiff,

vs.

GREGORY CHAPMAN, MONTANA
BANK AND REHABILITATION
INSTITUTE, and PRO ADJUSTER
CHIROPRACTIC CLINIC,

Defendants.

CV 13-43-M-DWM-JCL

ORDER

Cindy Frank claims she suffered personal injuries because of the defendants' alleged medical negligence. She is proceeding pro se. Magistrate Judge Lynch recommends dismissing her complaint for lack of jurisdiction.

Frank filed objections, so the Court reviews de novo Judge Lynch's Findings and Recommendation. 28 U.S.C. § 636(b)(1).

The Court adopts Judge Lynch's Findings and Recommendation in full. In her objections, Frank acknowledges that there is no federal subject matter jurisdiction over her claims. She asks the Court to not dismiss her complaint, though, and to instead remand the case to state court.

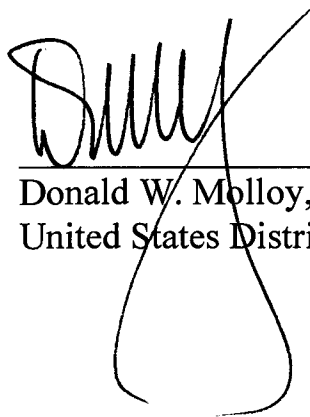
The Court can remand a case only if a defendant has attempted to remove

the case from state court to federal court. *See* 28 U.S.C. § 1441. That is not the case here. Frank filed her original complaint in federal court, not state court, and the defendants never attempted to remove it. Dismissal is therefore appropriate and does not prevent Frank from now filing her complaint in state court.

IT IS ORDERED that the Findings and Recommendation (doc. 4) is adopted in full.

IT IS FURTHER ORDERED that this matter is DISMISSED. The Clerk of Court is directed to close this case and enter judgment in favor of the defendants.

Dated this 4th day of April 2013.

A handwritten signature in black ink, appearing to read 'DMolloy', is written over a horizontal line. Below the line, the name and title of the signatory are printed.

Donald W. Molloy, District Judge
United States District Court